

# *United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III  
CLERK

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September 10, 2004

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing or  
Rehearing En Banc

No. 03-61069 Gye v. Ashcroft  
USDC No. A76 301 663  
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Enclosed is a copy of the court's decision. The court has entered judgment under FED. R. APP. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through 41, and 5<sup>TH</sup> CIR. RULES 35, 39, and 41 govern costs, rehearings, and mandates. **5<sup>TH</sup> CIR. RULES 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following FED. R. APP. P. 40 and 5<sup>TH</sup> CIR. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. 5<sup>TH</sup> CIR. R. 41 provides that a motion for a stay of mandate under FED. R. APP. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under FED. R. APP. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

The judgment entered provides that petitioner pay to respondent the costs on appeal.

Sincerely,  
CHARLES R. FULBRUGE III, Clerk

By:   
Kristin Cowdell, Deputy Clerk

Enclosure  
Mr Paul S Zoltan  
Ms Lisa M Arnold  
Mr John Ashcroft  
Ms Anne M Estrada  
Mr Thomas Ward Hussey  
Mr Michael Peter Lindemann  
Mr Caryl G Thompson

